

COUNTY OF KAUAI  
Minutes of Meeting  
**OPEN SESSION**

Board/Committee:		Kaua‘i Police Commission	Meeting Date	November 20, 2015	
Location	Mo`ikeha Building – Meeting Room 2A/B		Start of Meeting: 9:01 a.m.		End of Meeting: 10:23 a.m.
Present	Chair Ernest Kanekoa; Vice-Chair Charles C.C. Iona; Members: Savita Agarwal, Gerald “Chip” Bahouth (Arrived to the meeting at 10:03 a.m.) Mary K. Hertog, James O’ Connor, Donald Okami Sr.  Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Jay Furfaro; County Attorney Mauna Kea Trask; Police Department: Chief Darryl Perry (Arrived to the meeting at 9:07 a.m.), Assistant Chief Roy Asher; Executive Chief of Police Michael Contrades.				
Excused					
Absent					
SUBJECT		DISCUSSION		ACTION	
Call To Order		Chair Kanekoa announced that Chief Perry would be delayed for a few minutes and that Assistant Chief Roy Asher will be filling in for him until he arrives.		Chair Kanekoa called the meeting to order at 9:01 a.m.	
Approval of Minutes		Regular Open Session Minutes of October 23, 2015.		Commissioner O’Connor moved to approve the meeting minutes of October 23, 2015. Commissioner Okami seconded the motion. Motion carried 6:0	
Commendation Report		There was one letter of commendation involving four (4) personnel in the Kaua‘i Police Department. On October 19, 2015, Robin L. Dinlocker Assistant Special Agent in Charge of the Drug Enforcement Administration for the U.S. Department of Justice, wrote to thank Lieutenant Karen Kapua, Sergeant Jason Matsuoka, Officer Bruce Nance, Ms. Johnette Chun and Staff for assisting in the National Take-Back Initiative that was held on September 26, 2015, at the Kaua‘i Police Department. Statewide, approximately 2,900 pounds of prescription medication was collected.			

SUBJECT	DISCUSSION	ACTION
<b>Chief's Monthly Reports</b>	<ol style="list-style-type: none"> <li>1. Administrative and Technical Bureau &amp; Training Reports</li> <li>2. Fiscal Report</li> <li>3. Investigative Services Bureau</li> <li>4. Bench Warrant Tracking</li> <li>5. Patrol Services Bureau &amp; Traffic Reports</li> <li>6. Community Oriented District Reports</li> <li>7. Personnel Order</li> <li>8. Chief's Announcements and Pertinent Updates</li> </ol> <p>In reference to KPD's proposed FY2017 budget, Vice Chair Iona asked Commissioners Bahouth and Hertog to provide the Commission with their findings.</p> <p>Commissioner Hertog reported that she and Commissioner Bahouth met with Chief Darryl Perry and Executive Chief of Police Michael Contrades and, KPD's Fiscal Manager Daurice Arruda, to discuss KPD's plans on how to they plan to formulate and justify their budget for FY2017. She stated that the information they received was enough to convince both of them that the Department is doing their due diligence in trying to maintain and sustain KPD with what they have.</p> <p>She explained that KPD is in need of more internal assets to pull from and that KPD has exhausted all of their means to reorganize in terms of bodies. She added that there are also concerns over filling the positions relating to the Cops Grant before it expires in 2016, which prompt the Department to ask for a year extension. She added that although the KPD has 12 new recruits (which they hope to start in January) they will also need to start recruiting other individuals to fulfill the Cops Grant.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Commissioner Hertog shared that prior to the Chief meeting with the Mayor in January she and Commissioner Bahouth plan to meet with him before Christmas to review the final numbers and priorities. She stated that the body cameras is another issue in terms of having to hire an individual to review the body camera footage and make sure that it's readily available when a request for records comes in. She added that there is also the need to revisit the idea of establishing a New Legal Analyst position in the Department to review all of the accreditation policies in a timely manner; as everyone knows KPD had to extend their accreditation process which cost a lot of money to do.</p> <p>Commissioner Hertog commented that she understands how frustrating it is for the Department to have to put a lot of their purchases on hold (new vehicles) in order to keep the Department running.</p> <p>Commissioner Bahouth stated that it was enlightening for him to see what the Department has to go through just to put their budget together; which all seems specific and comprehensive to all of their expenditures. He noted that he could sense the Department has been running lean over the years, with nothing extra.</p> <p>Commissioner Bahouth stated that looking at where the Department is today, in terms of public service and where it's heading, the Department is at a breaking point. He pointed out that if we don't put the resources in the right places and begin to build a plan for the future all of the good work the Chief and his team have done is going to slide and will not be sustainable in the future.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Additionally, Commissioner Bahouth stated that relative to the non-County organizations that KPD provides services to (which he feels should be brought to the Mayor's attention) those organizations should be the one to absorb the entire cost and not the County. He pointed out that the SRO (School Resources Officer) program is a prime example of a service that needs to be looked at to see how the State can pay for those services. Commissioner Bahouth added that everyone here needs to step-up and fight the fight to support KPD during the budget process.</p> <p>Commissioner Hertog mentioned that what this all boils down to is the officer's safety in terms of having a reliable vehicle for when a call comes in asking for back-up for that one officer who is out there alone on a beat. She shared that another matter she and Commissioner Bahouth talked about that the County should consider is implementing a fee for service charge; from what she understands the County does not get reimbursed to cover events like the Kaua'i Marathon.</p> <p>Vice Chair Iona indicated that as cutbacks in the budget occur, and the demand for public safety increases, the Commission must to do everything it can to support the Police Department.</p> <p>Commissioner Bahouth mentioned that KPD gave them a list of priorities and a wish list which reflects close to a million dollars' worth of items. Commissioner Hertog reiterated that KPD has done its due diligence to address the issues relating to overtime; cutting where it has to and shifting manpower to where it's needed.</p> <p>With respect to the findings, Vice Chair Iona asked Commissioners Bahouth and Hertog if they could put together an Executive Summary and present it to the Commission at the next meeting for further discussion and</p>	

SUBJECT	DISCUSSION	ACTION
	<p>action. He expressed his concerns that if the problems are not addressed soon it will continue to slide; what cost a million dollars today, in a year or two, can turn into two million dollars. He pointed out that he understands clearly that the funding has to come from another source but by taking away the funding one cannot expect KPD to continue to operate at the level they are now at and that there must be a solution to a happy medium.</p> <p>With no further discussion, Chair Kanekoa moved onto the Chief's announcements.</p> <ul style="list-style-type: none"><li>• Chief Perry announced that KPD was awarded a grant from the Department of Justice Assistance in the amount of \$600,000. The grant funding will be used for KPD's drug task force and marijuana eradication programs. In addition, KPD with the help of Crime Specialist Stephanie Regan was able to reverse the decision another grant proposal in the amount of \$97,000 for a DNA screening and presumptive analysis project that would enable KPD to purchase innovative technology to aid in forensic examinations.</li><li>• Relative to the body worn cameras, the Department is scheduled to meet SHOPO representatives on November 25 to discuss implementation of the approved the policy to move the program forward.</li><li>• Chief Perry thanked Assistant Chief Robert Gausephol and Officer Stacy Perreira for doing an outstanding job in getting Council to approve a purchase of a 2.3 million dollar new RMS (Records Management System) for the Kaua'i Police Department.</li></ul>	

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	<ul style="list-style-type: none"><li>On Monday, December 21 the County of Kaua'i is hosting a summit on the Homelessness. The summit is a faith based approach to try to find solutions to address the homeless issues on Kaua'i. Chief Perry is one of the facilitators and he will be assisted by Captain Paul Applegate.</li><li>Four (4) adult males were arrested for Forgery in the 1<sup>st</sup> degree for passing Counterfeit \$100 bills throughout the island.</li><li>President Obama released a 2015 Drug Control Policy. The policy contains a list of drug controlled strategies and seven core areas. Chief Perry shared with the Commission a book on "Street Drugs" which illustrates the various drugs that are currently being circulated throughout the nation.</li><li>Vice Chair Iona announced that today marks Chair Kanekoa's last meeting as a Police Commissioner. He shared that Chair Kanekoa will not be at the Commission's next meeting in December because he will be on the mainland attending a family function. Vice Chair Iona thanked Chair Kanekoa for his dedicated years of service to the community and wished him well in his future endeavors.</li><li>Chair Kanekoa stated that his years on the Police Commission have been both exciting and educational. He asked that his fellow Commissioners to continue to do their good work and that he will miss them all.</li></ul> <p>With no further discussion, Chair Kanekoa moved onto the next agenda item.</p>	

SUBJECT	DISCUSSION	ACTION
<b>Business</b> <b>KPC 2015-11</b>	<p><u>Discussion or input on possible recommendations for improvements to Article XI Police Department of the Kaua‘i County Charter. (Deferred on October 23, 2015)</u></p> <p>Chair Kanekoa opened the floor for comments. Commissioner O’Connor stated that he thinks the matter regarding the ICA’s ruling will continue well into the new year. He stated that it would be a good idea to form a study group because he thinks it will take the Commission several steps to formulate the right language for consideration by the Charter Commission. Commissioner O’Connor stated that he would be glad to initiate the discussion at the next meeting before his term ends on December 31, 2015 of which time he would then pass the task to someone else.</p>	
<b>KPC 2015-12</b>	<p><u>General discussion on the Police Department’s Budget for FY 2017. (On-going)</u></p> <p>Commissioner Bahouth stated that he would work with Commissioner Hertog an Executive Summary regarding their meeting with KPD relating to their budget and fiscal challenges.</p> <p>With no further discussion, Chair Kanekoa moved onto the next agenda item.</p>	
<b>KPC 2015-13</b>	<p><u>Discussion on participating in an hour and half mandatory training session on the County’s updated Policy against Discrimination, Harassment and Retaliation slated for December and January.</u></p> <p>With no discussion, Chair Kanekoa moved onto the next agenda item.</p>	
<b>KPC 2015-14</b>	<p><u>Discussion with Chief Perry on the pros and cons of continuing the Kaua‘i Police Department’s School Resource Officer Program.</u></p> <p>Commissioner Hertog stated that currently there are four (4) officers that are currently being used as School Resource Officers and although the</p>	

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	<p>program is important, it is obvious that the Department will not get any more manpower authorized by the County Council and that there may be other priorities that the Chief could use these four (4) positions for such as the body camera program.</p> <p>Commissioner Hertog stated that they wanted to have a discussion on what the Commission felt in terms of maintaining the program or making a recommendation to the Mayor to eliminate the program which would allow the Department to use these four (4) positions in other areas of policing to better serve the community.</p> <p>Commissioner Bahouth stated that correct him if he's wrong but from he understands originally the State was supposed to reimburse the County for the program. Chief Perry stated that when the program initially started the funds came from a grant and although the money ran out the program the County decided to continue using County funds.</p> <p>Chief Perry stated that he agrees with Commissioner Hertog that the program is very important, however, the Department needs to consider its own priorities and that everyone needs to understand that the State needs to take more responsibility and fund its programs, welcomes more discussion on the matter.</p> <p>Commissioner Okami asked if anyone has ever considered meeting with Bill Arakaki to let him know what the concerns are and to see if he could help to which Chief Perry replied that they had some discussion but not serious ones but he thinks it would be a good idea to move into that direction.</p>	



SUBJECT	DISCUSSION	ACTION
	<p>Chief Executive Officer Michael Contrades stated that they met with Mr. Arakaki to express their concerns that because the SRO program falls under the Department of Education the four (4) positions should be funded by the State and not the County. However, Mr. Arakaki did not agree and an agreement was made that he would take care of the officers' training.</p> <p>CEO Contrades went on to say that they also had a discussion on having the DOE take over the school crossing guard positions to help KPD alleviate the burden of filling those positions, but no agreement was made.</p> <p>Vice Chair Iona stated bluntly if he told them to cut the program where would those positions shift to. CEO Contrades stated that those positions would be used elsewhere and they are currently searching trying to figure out where to take positions from to create new needed positions. He shared that it was disheartening for him when one of the councilmember's say that KPD needs to look at reorganization; out of all the County department's KPD is the only department that has done that the most.</p> <p>Commissioner Iona stated for him as an individual Commissioner if it means alleviating and redirecting the resources from other areas; I would support KPD in eliminating the program. He added that if the State cannot meet the County half way then the hell with them; the department needs to start to thinking about themselves and what they need; there are a lot of wants out there but if no one wants to meet half way that's all it's going to be a want.</p> <p>CEO Contrades stated that should the decision be made and we continue down that route it would include KPD not responding to the schools anymore unless there is some type of violence or a major crime; theft complaints or CPD at the schools will have to be handled by the school</p>	

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	<p>internally or by calling the sheriff's office.</p> <p>Vice Chair Iona asked how does the Department as whole feel about the program and what is their position to which CEO Contrades replied they see the benefits and does not want to see the program cut, however, when considering all of the priorities KPD has a greater need for those officers in other areas. He explained that it would be ideal if the State would pay for the four (4) positions that way they could talk to the Mayor and the Council about creating new positions because those four (4) position would be paid for by the State.</p> <p>Commissioner Okami stated that the burden has to shift from the County to the State if it is a priority for them, but obviously it's not a priority therefore the Department needs to do whatever it needs to take care of itself. Commissioner O'Connor stated that it's not our kuleana it's the State kuleana because the SRO program falls under the Department of Education which is part of the State. Vice Chair Iona commented that the Department just wants to get a full brass on how to spend their money wisely. Commissioner Bahouth asked how much notice they would give DOE before they remove the SRO's from the schools to which CEO Contrades replied at this time there are no specific plans but it would be prudent to wait until the school year ends. Commissioner Hertog commented with all things considered we need to show what the benefits are if we are to make a recommendation to the Mayor to cut the program. Vice Chair Iona stated that we need to put out a public service announcement because he doesn't want the people to get the wrong impression that KPD is cutting out on them. He added that for the sake of transparency, the Commission needs to prepare a public service announcement weighing in all of pros and cons on why the Police Commission is supporting KPD in eliminating unfunded programs such as</p>	

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	<p>the SRO program.</p> <p><u>Action</u> Commissioner Bahouth made a motion that the Police Department provide the Commission with a plan of action to remove the SRO Program to include plans behind it on how they plan to support it going forward. Commissioner O’Connor seconded the motion. Motion carried 7:0</p> <p>With no further discussion, Chair Kanekoa moved onto the next agenda item.</p>	
<b>KPC 2015-15</b>	<p><u>Communication dated October 21, 2015, from Council Chair Mel Rapozo to Chief Darryl Perry and the Kaua‘i Police Commission, wrote to thank the men and women in the Kaua‘i Police Department especially the officers who were involved in solving the murder of Gary Allianic Jr., the armed robbery of Lihu‘e Pharmacy; locating and arresting fugitive Ray Kuna Harada and finding and arresting the perpetrators responsible for the multiple break-ins on Kauai’s Westside.</u></p> <p>Chair Kanekoa called for a motion to receive item KPC 2015-15, for the record.</p>	<p>Commissioner Hertog moved to receive item KPC 2015-15. Commissioner Bahouth seconded the motion. Motion carried 7:0</p>
<b>KPC 2015-16</b>	<p>Public announcement for notarized complaint KPC 2015-012, that was filed on September 1, 2015, alleging that an Officer of the County was rude and refused to provide the complainant with his business card when asked. After a diligent inquiry by the Commission, in which the Commission reviewed all available materials, the Commission voted unanimously to send the complaint to the Office of the Chief of Police for further review and investigation. This officially concluded the Commission’s review of notarized complaint KPC 2015-012.</p>	

SUBJECT	DISCUSSION	ACTION
<b>Announcements</b>	Next regularly scheduled meeting – January 22, 2016, at 9 a.m. at the Mo‘ikeha Building, Meeting Room 2A/2B, followed by Executive Session.	
<b>Executive Session</b>  <b>ES-33</b>	At 9:54 a.m. Vice Chair Iona cited the Hawai‘i Revised Statutes’ to bring the meeting into Executive Session:  <u>Pursuant to Hawai‘i Revised Statutes §92-4 and §92-5 (a) (4), the purpose of this Executive Session is for the Commission to consult with its attorney as to the powers, duties, privileges, immunities, and liabilities as they may relate to a Declaratory Action to determine the powers of the Mayor and the powers of the Police Commission. (On-going)</u>	
<b>ES KPC 2015-031</b>	<u>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (2) and (4), the purpose of this Executive Session is for the Commission to consider the evaluation of the Police Chief where consideration of matters affecting privacy will be involved, and to consult with its attorney on issues pertaining to the Commission’s and the County’s powers, duties, privileges, immunities, and/or liabilities as they may relate to this agenda item:</u>  <u>Discussion on the 2015 Performance Evaluation for Police Chief Darryl Perry. (On-going)</u>	
<b>ES KPC 2015-036</b>	<u>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve the Executive Session minutes of October 23, 2015, and to consult with its attorney on issues pertaining to the Commission’s and the County’s powers, duties, privileges, immunities, and/or liabilities as they may relate to this agenda item.</u>	

SUBJECT	DISCUSSION	ACTION
<b>ES KPC 2015-037</b>	<u>Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (2) (4), the Office of the County Attorney request an Executive Session with the Police Commission to brief the members regarding a request by Defendant Cory Sarmiento, through his attorney, for Kaua'i Police Commission records relating to case number Cr. No. 13-1-0442, State of Hawai'i versus Cory Sarmiento and Michelle Salvas. This briefing and consultation involves consideration of powers, duties, privileges, immunities and/or liabilities as they may relate to this agenda item.</u>	
<b>ES KPC 2015-038</b>	<p><u>Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (2) and (4), the purpose of this Executive Session is for the Commission to consider the evaluation, dismissal, or discipline of an employee or officer of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission's and the County's powers, duties, privileges, immunities, and/or liabilities as they may relate to the following agenda item:</u></p> <p><u>Communication dated October 20, 2015, to the Kaua'i Police Commission with attention to Commissioner Mary Kay Hertog, regarding an experience the complainant had with police officers while getting a ticket for a traffic citation.</u></p>	
<b>ES KPC 2015-039</b>	<u>Pursuant to Hawai'i Revised Statutes §92-4 and §92-5 (a) (4), the purpose of this Executive Session is for the Commission to consult with its attorney as to the powers, duties, privileges, immunities, and liabilities as they may relate to the Police Commission's procedures and receipt of complaints.</u>	

SUBJECT	DISCUSSION	ACTION
	Chair Kanekoa called for a motion to enter into Executive Session.	Commissioner O'Connor moved to enter into Executive Session. Commissioner Okami seconded the motion. Motion carried 7:0 At 9:57 a.m. the Commission entered into Executive Session.
<b>Return to Open Session to Ratify the actions taken in Executive Session</b>	At 10:20 a.m. the Commission reconvened in Open Session. Chair Kanekoa called for a motion to ratify the actions taken in Executive Session.	Commissioner Okami moved to ratify the actions taken in Executive Session. Commission Bahouth seconded the motion. Motion carried 7:0 ES-33: On-going (No new updates)  ES KPC 2015-031- On-going.  ES KPC-2015 036: Motion carried 7:0 to approve the meeting minutes of October 23, 2015.  ES KPC 2015-037: Motion carried 7:0 to deny defendant Cory Sarmiento's request for Kaua'i Police Commission Records as it relates to State of Hawai'i v. Cory Sarmiento and Michelle Salvas Cr. No. 13-1-0442.  ES KPC 2015-038: Motion carried 7:0 to send the complaint to Chief Perry for further review and follow-up.  ES KPC 2015-039: Motion carried 7:0 to receive the communication dated November 12, 2015, from First Deputy County Attorney

SUBJECT	DISCUSSION	ACTION
		Stephen Hall to Chair Kanekoa and \Members of the Kaua'i Police Commission.
<b>Adjournment</b>	With no further business to conduct, Chair Kanekoa called for a motion to adjourn the meeting.	Commissioner O'Connor moved to adjourn the meeting. Commissioner Okami seconded the motion. Motion carried 7:0  At 10:23 a.m. the meeting adjourned.

Submitted by: \_\_\_\_\_  
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: \_\_\_\_\_  
Charles C.C. Iona, Vice Chairman

( **x** ) Approved as circulated on December 18, 2015.

( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.